

APPEAL NO. 022968
FILED JANUARY 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 16, 2002. The hearing officer determined that the appellant (claimant) was not entitled to change treating doctors from Dr. SS to Dr. AS; that the claimant had disability from March 4 until May 22, 2002; and that the respondent "carrier" (self-insured) had not waived the right to dispute the Texas Workers' Compensation Commission order permitting a change in treating doctor. The hearing officer's determination that the self-insured had not waived its right to dispute the change of treating doctor has not been appealed and therefore has become final pursuant to Section 410.169. We also would note that some evidence was presented regarding suspension of temporary income benefits for failure to appear at a medical examination; however that was not a certified issue and the hearing officer correctly did not address that matter.

The claimant appeals the change of treating doctor determination, contending that Dr. SS "did not provide appropriate diagnose[s] . . . with X ray or MRI" and that she had disability from _____, to the date of the CCH. The self-insured responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed by the self-insured's health department making field inspections when on _____, she was involved in a compensable motor vehicle accident. The claimant testified that she injured her "[l]ower back and right hip" in the accident, was seen in a hospital emergency room the same day, and began treating with Dr. SS. The claimant had previously treated with Dr. SS for an unrelated matter and Dr. SS was in a book of physicians approved by the self-insured. The claimant missed intermittent days of work. On a "back to work" form Dr. SS released the claimant to restricted duty ("no heavy lifting") as of March 13, 2002, and subsequently on another form dated March 18, 2002, released the claimant to full duty effective March 20, 2002. The claimant sought care with Dr. AS on March 19, 2002, and completed an Employee's Request to Change Treating Doctors (TWCC-53). Dr. AS took the claimant off work. Among the claimant's reasons for changing doctors was that Dr. SS did not take X rays or order an MRI, although other evidence would indicate that reason to be incorrect. The claimant saw the self-insured's required medical examination (RME) doctor on May 22, 2002. The RME doctor stated he agreed with Dr. SS and the claimant could return to work.

The hearing officer, in the discussion portion of his decision, cited Section 408.022 and the fact that the claimant had previously treated with Dr. SS, in determining

that Dr. SS had provided appropriate medical treatment. We would further note that Section 408.022(d) provides that a change of doctor may not be made to secure a new medical report. The hearing officer could well have found that the claimant's reason for changing treating doctors was because Dr. SS had released the claimant to return to work while Dr. AS took the claimant off work. We will affirm the hearing officer's decision on any reasonable basis supported by the evidence. Daylin, Inc. v. Juarez, 766 S.W.2d 347 (Tex. App.-El Paso 1989, writ denied).

The hearing officer's determination on the ending date of disability (as defined in Section 401.011(16)) is supported by the RME doctor's report.

There was conflicting evidence presented at the hearing on the issues. The hearing officer weighed the credibility and inconsistencies in the evidence and the hearing officer's determinations on the issues are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge